

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

GARY PHILLIP EVANS,	:	NO.: 1:09-CV-1013
Plaintiff	:	
	:	JUDGE CONNER
v.	:	
	:	
YORK COUNTY ADULT PROBATION	:	CIVIL ACTION - LAW AND
AND PAROLE DEPARTMENT,	:	EQUITY
DONALD R. LAUER, JR., individually,	:	
Defendants	:	JURY TRIAL DEMANDED
	:	(Electronically Filed)

**PLAINTIFF'S OBJECTIONS
TO REPORT AND RECOMMENDATION**

AND NOW, comes the Plaintiff, Gary P. Evans, by and through his counsel, Dennis E. Boyle, Esquire, Joshua M. Autry, Esquire, and the firm of Boyle, Neblett & Wenger, and respectfully objects to the Report and Recommendation, and in support thereof avers as follows:

1. Plaintiff objects to the recommendation by the Honorable Magistrate Judge Malachy E. Mannion that this Court grant Defendants' Motion for Summary Judgment and deny Plaintiff's Motion for Partial Summary Judgment.

2. Although Plaintiff does not object to dismissal of claims against Defendant York County Adult Probation and Parole Department based upon Eleventh

Amendment immunity, Defendant Donald Lauer is not entitled to qualified immunity as a matter of law. *See* Report & Recommendation at 34-35..

3. To the contrary, Plaintiff is entitled to partial summary judgment against Defendant Lauer.

4. The Magistrate failed to scrutinize Lauer's actions under the proper constitutional standards under the First, Fifth, Sixth and Fourteenth Amendments, but merely held in a conclusory fashion that Lauer's actions were reasonable. This was error.

WHEREFORE, the Plaintiff, Gary Evans, respectfully requests that this Court reject the Report and Recommendation as to all claims against Donald Lauer.

BOYLE, NEBLETT & WENGER

/s/ Joshua M. Autry

Dennis E. Boyle, Esquire

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Counsel For: Plaintiff

Dated: October 15, 2010

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below I electronically filed the foregoing Objections to Report and Recommendation with the Court using the CM/ECF system, which sent notification of such filing to the following person(s) at the following email address(es):

Michael W. Flannelly, Esquire
mwflannelly@york-county.org

Honorable Malachy E. Mannion
Magistrate Judge
Via ECF System

/s/ Penny A. Rogers
Penny A. Rogers, Paralegal

Dated: October 15, 2010